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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
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9 United States of America, ) CR 11-1298-PHX-JAT  
10 Plaintiff, ) **ORDER**  
11 vs. )  
12 )  
13 Virginia Quintero Mendoza, )  
14 Defendant. )  
15

16 Defendant has moved for a voluntariness hearing. The Government objects because  
17 Defendant has not put forth sufficient facts that would allow the Government to respond on  
18 the merits or entitle Defendant to relief.

19 “A hearing is not required on a motion to suppress if the grounds for suppression  
20 consist solely of conclusory allegations of illegality.” *United States v. Ramirez-Garcia*, 269  
21 F.3d 945, 947 (9<sup>th</sup> Cir. 2001) (citing *United States v. Wilson*, 7 F.3d 828, 834 (9<sup>th</sup> Cir.  
22 1993)). “An evidentiary hearing on a motion to suppress [a confession] need be held only  
23 when the moving papers allege facts with sufficient definiteness, clarity, and specificity to  
24 enable the trial court to conclude that contested issues of fact exist.” *United States v.*  
25 *Howell*, 231 F.3d 615, 620 (9<sup>th</sup> Cir. 2001) (citing *United States v. Harris*, 914 F.2d 927, 933  
26 (7<sup>th</sup> Cir. 1990); *United States v. Irwin*, 612 F.2d 1182, 1187 n.14 (9<sup>th</sup> Cir. 1980); and *United*  
27 *States v. Carrion*, 463 F.2d 704, 706 (9<sup>th</sup> Cir. 1972)). Defendant cannot simply rely on the  
28 fact that the Government has the burden of proof to establish voluntariness. *See Howell*, 231

1 F.3d at 621 (affirming denial of evidentiary hearing where defendant “submitted a boilerplate  
2 motion that relied wholly on the fact that the government has the burden of proof to establish  
3 adequate Miranda warnings”); *see also* L.R.Crim. 16.1(b).

4 In this request for voluntariness hearing, Defendant says, “The boarder patrol agents  
5 took a confession from the defendant while she was in custody and after the defendant  
6 requested an attorney.” Doc. 23 at 2. Defendant then says that her, “statements were  
7 illegally obtained in violation of the Fifth, Sixth, and Fourteenth Amendments... .” *Id.* The  
8 motion concludes, “The defendant is entitled to an evidentiary hearing to determine the  
9 voluntariness of defendant’s confession... .” *Id.*

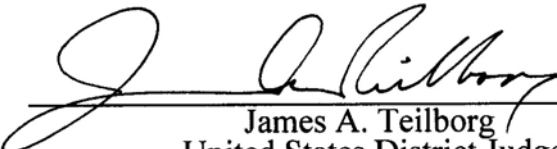
10 First, the Court agrees with the Government that Defendant has offered no facts to  
11 support a request for a voluntariness hearing. Second, Defendant has offered insufficient  
12 facts to warrant a suppression hearing (and Defendant has failed to cite a single case that  
13 would support the motion). However, because Defendant has indicated a colorable  
14 foundation for the motion — failure to honor a request for counsel — the Court will permit  
15 Defendant to supplement to motion to explain “with sufficient definiteness, clarity, and  
16 specificity” Defendant’s basis for seeking to suppress her statements. *See Howell*, 231 F.3d  
17 at 620. Defendant should also cite law to support her position.

18 Accordingly,

19 **IT IS ORDERED** that Defendant shall supplement the motion (Doc. 23) by  
20 December 22, 2011, with the specifics listed above, or the motion will be denied without  
21 prejudice.

22 **IT IS FURTHER ORDERED** that if Defendant files a supplement, the response and  
23 reply times will be those set by the Local Rules.

24 DATED this 8th day of December, 2011.

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28 James A. Teilborg  
United States District Judge